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FISCAL IMPACT STATEMENT

LS 6354

BILL NUMBER: SB 333

NOTE PREPARED: Jan 15, 2012

BILL AMENDED:

SUBJECT: State Taxes.

FIRST AUTHOR: Sen. Smith J

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☐ **DEDICATED**
☐ **FEDERAL**

IMPACT: State

Summary of Legislation: The bill phases the corporate income tax rate down from 8.5% to 2% by June 30, 2013.

The bill provides that the following state tax credits may not be awarded after December 30, 2012: (1) Research expense credit. (2) Prison investment credit. (3) Enterprise zone loan interest credit. (4) Neighborhood assistance credit. (5) Enterprise zone investment cost credit. (6) Industrial recovery tax credit. (7) Military base recovery credit. (8) Military base investment cost credit. (9) Economic development for a growing economy credit. (10) Capital investment credit. (11) Indiana riverboat building credit. (12) Individual development account credit. (13) Community revitalization enhancement district credit. (14) Venture capital investment credit. (15) Coal combustion product credit. (16) Hoosier business investment credit. (17) Blended biodiesel credit. (18) Ethanol production credit. (19) Coal gasification technology investment credit. (20) Headquarters relocation credit. (21) New employer tax credit.

It also provides that the computer equipment donations credit, historic rehabilitation credit, and school scholarship credit may not be awarded after December 31, 2012, to a taxpayer other than an individual.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to reflect the corporate tax rate changes and the expiration of various tax credits beginning in tax year 2013.

Explanation of State Revenues: *Corporate Tax Rate Reduction:* The bill phases in a corporate adjusted

gross income (AGI) tax rate reduction in FY 2013 and FY 2014. The table below reports the current tax rates, the proposed tax rates, and the estimated revenue loss due to the tax rate reductions.

| Fiscal Year | Current Corp. AGI Tax Rate | Proposed Corp. AGI Tax Rate | Revenue Loss (in millions of dollars) |
|--------------------|-----------------------------------|------------------------------------|--|
| 2012 | 8.5% | 8.5% | 44.1 |
| 2013 | 8.0% | 5.0% | 160.9 |
| 2014 | 7.5% | 2.0% | 280.8 |
| 2015 | 7.0% | 2.0% | 299.8 |
| 2016 | 6.5% | 2.0% | 281.4 |
| 2017 | 6.5% | 2.0% | 278.4 |

Revenue from the corporate AGI Tax is distributed to the state General Fund. The revenue loss estimate is based on the Revenue Technical Committee Forecast (December 14, 2011) for the corporate AGI tax.

Tax Credit Sunsets: The bill: (1) prohibits new credits under the tax credits described below (see *Background Information*) from being awarded after tax year 2012; (2) allows taxpayers with unused credits awarded in tax year 2012 or before to carry over those tax credits through tax year 2022, provided carry over is allowed under current statute; and (3) sunsets the tax credits altogether on January 1, 2023. In tax year 2009, the amount claimed under these tax credits totaled \$90.2 M (\$13.5 M by individual income taxpayers and \$76.7 M by corporate income taxpayers).

Please note the additional information on certain tax credits highlighted below.

(1) The bill sunsets the historic rehabilitation credit only for corporate taxpayers.

(2) The coal gasification technology investment credit has never been claimed by a taxpayer. However, the Indiana Economic Development Corporation (IEDC) has approved \$142.5 M in credits for Duke Energy relating to their coal gasification plant being built at Edwardsport. Duke Energy must claim the credit against tax liability in 10 annual installments of \$14.25 M beginning in the year the plant is placed into service.

(3) The bill sunsets the school scholarship organization contribution credit only for corporate taxpayers. Also, this credit was first available against 2011 taxes, so tax year credit claims data is not available. In FY 2011, the Department of State Revenue awarded approximately \$334,500 in credits and has so far awarded about \$1.45 M in credits in FY 2012.

(4) The venture capital investment credit is currently scheduled to expire after tax year 2014, so the bill moves the expiration date up by two years.

(5) The Hoosier business investment tax credit is currently scheduled to expire after tax year 2013, so the bill moves the expiration date up by one year.

(6) The new employer credit has not been claimed to this point. The IEDC indicates that while they do receive inquiries about the credit, they have not received any applications for the credit. The credit is equal to 10% of wages paid by a new Indiana business to new qualified employees during the first 24 months of

employment, and applies to new businesses starting in 2010, 2011, or 2012, that employ at least 10 new qualified employees.

Background Information: The list below describes the tax credits the bill is sunsetting, and the tables following the list report the number of individual and corporate taxpayers claiming the credit and the amount claimed in tax year 2009.

- (1) *Biodiesel Production Credit:* \$1.00 per gallon of biodiesel, and \$0.02 per gallon of blended biodiesel produced at an Indiana facility.
- (2) *Capital Investment Credit:* 14% of the value of qualified investment in a business project having an estimated total cost of at least \$75 M and located in Shelby County.
- (3) *Coal Combustion Product Credit:* \$2 per ton of increased acquisitions during the taxable year of coal combustion products obtained and used by a manufacturer.
- (4) *Coal Gasification Technology Investment Credit:* 10% of the first \$500 M in qualified investment in an integrated coal gasification power plant (7% if the investment is in a fluidized bed combustion unit); and 5% of the qualified investment exceeding \$500 M (3% if the investment is in a fluidized bed combustion unit).
- (5) *Community Revitalization Enhancement District (CRED) Credit:* 25% of the value of qualified investment in a CRED.
- (6) *Economic Development for Growing Economy (EDGE) Credit:* Credit based on incremental income tax withholdings of new or retained employees in an amount approved by the IEDC Board.
- (7) *Enterprise Zone (EZ) Investment Cost Credit:* A maximum of 30% of equity investment in an EZ business, depending upon the type of investment, the type of business, and the number of jobs created by the investment.
- (8) *Enterprise Zone Loan Interest Credit:* 5% of interest income earned by a taxpayer from a loan that directly benefits an EZ business, increases EZ property values, or is used to rehabilitate, repair, or improve an EZ residence.
- (9) *Ethanol Production Credit:* \$0.125 per gallon of ethanol produced at qualified Indiana facilities. The total allowable credit per taxpayer (1) may not exceed \$2 M if annual production of grain ethanol is between 40 M and 60 M gallons; (2) may not exceed \$3 M if annual production of grain ethanol is at least 60 M gallons; or (3) is not specified for production of cellulosic ethanol.
- (10) *Headquarters Relocation Credit:* 50% of the costs incurred by an eligible business to relocate its headquarters to Indiana.
- (11) *Historic Rehabilitation Credit:* 20% of qualified expenditures made by a taxpayer for the preservation or rehabilitation of historic property used for commercial purpose.
- (12) *Hoosier Business Investment Credit:* Up to 10% of qualified business investment directly related to expanding the workforce in Indiana.
- (13) *Industrial Recovery (Dinosaur) Credit:* 15% to 25% (depending on the age of the property) of qualified expenditures made by a taxpayer for rehabilitation of property located within an industrial recovery site.
- (14) *Military Base Investment Cost Credit:* A maximum of 30% of equity investment in a business located on qualified military base property, depending upon the type of investment, the type of business, and the number of jobs created by the investment.
- (15) *Military Base Recovery Credit:* 15% to 25% (depending on the age of the property) of qualified expenditures made by a taxpayer for rehabilitation of property located within a military base recovery site.
- (16) *Neighborhood Assistance Credit:* 50% of amounts, up to \$25,000, used to provide neighborhood assistance, job training, or education for individuals not employed by the business firm or person, or for community services or crime prevention in an economically disadvantaged area.
- (17) *New Employer Credit:* 10% of wages paid by a new Indiana business to new qualified employees during

the first 24 months of employment, and applies to new businesses starting in 2010, 2011, or 2012 that employ at least 10 new qualified employees.

(18) *Prison Investment Credit*: 50% of any capital investment and 25% of any wages paid by a business that hires adult offenders within correctional facilities up to \$100,000.

(19) *Research Expense Credit*: 15% of the first \$1 M of qualified research expenses and 10% of qualified research expenses in excess of \$1 M.

(20) *Riverboat Building Credit*: 15% of a qualified investment to build or refurbish a riverboat.

(21) *School Scholarship Organization Contributions Credit*: 50% of contributions to nonprofit K-12 school scholarship-granting organizations.

(22) *Venture Capital Investment Credit*: 20% of annual qualified venture capital investment up to \$1 M.

| Tax Credits Claimed by Individual Income Taxpayers - Tax Year 2009 | | | |
|---|-------------|--|-------------|
| Biodiesel Production Credit | | Hoosier Business Investment Credit | |
| Taxpayers claiming credit | 8 | Taxpayers claiming credit | 91 |
| Credits claimed | \$85,582 | Credits claimed | \$1,409,098 |
| Coal Combustion Product Credit | | Industrial Recovery (Dinosaur) Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | 6 |
| Credits claimed | \$0 | Credits claimed | \$17,069 |
| Coal Gasification Technology Investment Credit | | Military Base Investment Cost Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | N/R |
| Credits claimed | \$0 | Credits claimed | \$1,986 |
| Comm. Revitalization Enhancement District Credit | | Military Base Recovery Credit | |
| Taxpayers claiming credit | 121 | Taxpayers claiming credit | 13 |
| Credits claimed | \$138,652 | Credits claimed | \$9,799 |
| EDGE Credit | | Neighborhood Assistance Credit | |
| Taxpayers claiming credit | 673 | Taxpayers claiming credit | 3,649 |
| Credits claimed | \$1,149,147 | Credits claimed | \$1,891,303 |
| Enterprise Zone Investment Cost Credit | | Prison Investment Credit | |
| Taxpayers claiming credit | 29 | Taxpayers claiming credit | 10 |
| Credits claimed | \$84,829 | Credits claimed | \$76,133 |
| Enterprise Zone Loan Interest Credit | | Research Expense Credit | |
| Taxpayers claiming credit | 85 | Taxpayers claiming credit | 818 |
| Credits claimed | \$54,734 | Credits claimed | \$5,492,302 |
| Ethanol Production Credit | | Riverboat Building Credit | |
| Taxpayers claiming credit | 33 | Taxpayers claiming credit | N/R |
| Credits claimed | \$627,067 | Credits claimed | \$450 |
| Headquarters Relocation Credit | | Venture Capital Investment Credit | |
| Taxpayers claiming credit | N/R | Taxpayers claiming credit | 399 |
| Credits claimed | \$1,422 | Credits claimed | \$2,418,395 |
| N/A=Not Applicable. | | | |
| N/R=Five or fewer filers, filer count not reported. | | | |
| *Filer counts and amounts are from tax year 2009 returns. | | | |

| Tax Credits Claimed by Corporate Income Taxpayers - Tax Year 2009 | | | |
|---|--------------|--|--------------|
| Biodiesel Production Credit | | Hoosier Business Investment Credit | |
| Taxpayers claiming credit | N/R | Taxpayers claiming credit | 28 |
| Credits claimed | \$341,692 | Credits claimed | \$4,231,100 |
| Capital Investment Credit | | Historic Rehabilitation Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | 0 |
| Credits claimed | \$0 | Credits claimed | \$0 |
| Coal Combustion Product Credit | | Industrial Recovery (Dinosaur) Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | 0 |
| Credits claimed | \$0 | Credits claimed | \$0 |
| Coal Gasification Technology Investment Credit | | Military Base Investment Cost Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | 0 |
| Credits claimed | \$0 | Credits claimed | \$0 |
| Comm. Revitalization Enhancement District Credit | | Military Base Recovery Credit | |
| Taxpayers claiming credit | N/R | Taxpayers claiming credit | 0 |
| Credits claimed | \$4,251,218 | Credits claimed | \$0 |
| EDGE Credit | | Neighborhood Assistance Credit | |
| Taxpayers claiming credit | 857 | Taxpayers claiming credit | 18 |
| Credits claimed | \$49,094,401 | Credits claimed | \$14,726 |
| Enterprise Zone Investment Cost Credit | | Prison Investment Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | N/R |
| Credits claimed | \$0 | Credits claimed | \$73,818 |
| Enterprise Zone Loan Interest Credit | | Research Expense Credit | |
| Taxpayers claiming credit | 21 | Taxpayers claiming credit | 83 |
| Credits claimed | \$1,818,275 | Credits claimed | \$15,634,232 |
| Ethanol Production Credit | | Riverboat Building Credit | |
| Taxpayers claiming credit | N/R | Taxpayers claiming credit | N/R |
| Credits claimed | \$194,744 | Credits claimed | \$1,000,000 |
| Headquarters Relocation Credit | | Venture Capital Investment Credit | |
| Taxpayers claiming credit | 0 | Taxpayers claiming credit | N/R |
| Credits claimed | \$0 | Credits claiming | \$78,257 |

N/A=Not Applicable.
N/R=Five or fewer filers, filer count not reported.
*Filer counts and amounts are from tax year 2009 returns.

Explanation of Local Expenditures:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: Revenue Technical Committee Forecast, December 14, 2011; OFMA Income Tax databases, 2009. Gruber, J. and Rauh, J. (2007). *How elastic is the corporate income tax base?* Bruce, D., Deskins, J., and Fox, W. (2005) *On the Extent, Growth, and Efficiency Consequences of State Business Tax Planning*. Bruce, D. Deskins, J., and Fox, W. (2006). *On The Relative Distortions of State Sales, Corporate Income and Personal Income Taxes*.

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